IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION (STAMP)NO.20302 OF 2006
IN
WRIT PETITION NO.3975 OF 2005

State of Maharashtra & Anr. ...Applicants.
Vs.
Shri Pandurang Tulshiram Kedare & Ors. ...Respondents.
....
Mr. V.A. Gangal, AGP for the Applicants.
Mr. R.K. Mendadkar for Respondent No.1.
.....
CORAM : SMT. RANJANA DESAI &
DR.D.Y.CHANDRACHUD, JJ.

January 17, 2007.

P.C.

On the condonation of delay, the Review Petition has, by consent, been placed on Board and has been taken up for hearing.

2. The original Petitioner, Pandurang T. Kedare, obtained a caste certificate that he was a member of the Halba Scheduled Tribe on 16th June 1977. His daughter, Meenal Pandurang Kedare, obtained a caste certificate on 11th March 1998. The Caste Scrutiny Committee at Amravati invalidated the claim of the daughter of the original Petitioner to belong to the Halba

Scheduled Tribe on 28th October 2003. A petition filed by the daughter of the original Petitioner (WP 8171 of 2003) was dismissed by a Division Bench of this Court on 16th June 2004. The caste claim of the original Petitioner was rejected by the Scrutiny Committee on 31st March 2005 and the order of the committee was challenged in a petition under Article 226 of the Constitution. In the Review Petition it has been averred that the Scrutiny Committee at Amravati had, by a letter dated 13th July 2005, called for a copy of the Writ Petition for furnishing parawise remarks with a request that the matter be transferred to the Nagpur Bench. However, it has been stated that the AGP did not provide a copy of the Petition to the Scrutiny Committee as a result of which, the reply was not filed.

3. At the hearing of the Review Petition, the attention of the Court has been drawn to the fact that the original Petitioner had suppressed from the Court the fact that his daughter's claim that she belongs to the Halba Scheduled Tribe was rejected by the Scrutiny Committee and the petition filed in order to impugn that decision was dismissed by the Division Bench on 16th June 2004. We have been constrained to take a serious note of the omission

of the original Petitioner to disclose before the Court that the claim of his own daughter to belong to the same Scheduled Tribe was rejected and that the Petition challenging the rejection was also dismissed by this Court. In the Review Petition, it has been stated that the same AGP appeared for the State in both the matters and the same Learned Advocate appeared for the original Petitioner in both the sets of petitions. We are of the view that the circumstance that the petition filed by the original Petitioner's daughter was dismissed by a Division Bench of this Court was a material fact which ought to have been brought to the notice of the Court. It was then for the Court to consider what appropriate order should be passed in the Writ Petition. The order of the Court dated 5th August 2005 was, therefore, passed as a result of a suppression of a material fact which ought to have been brought to the notice of the Court, but which was not disclosed.

4. In the circumstances, we allow the Review Petition and recall our order dated 5th August 2005 in Writ Petition 3975 of 2005. The Registry shall now list Writ Petition 3975 of 2005 before the appropriate Bench for admission in accordance with the assignment of work. In order to enable the original Petitioner to

apply for relief before the Division Bench, there shall be a direction to the effect that his services shall not be disturbed for six weeks from today i.e., till 28.2.2007.

(SMT.RANJANA DESAI, J.)

(DR.D. Y. CHANDRACHUD, J.)